FILE COPY

Office - Supreme Court
FILED
FEB 24 19
CHARLES ELMORE CRO

IN THE

Supreme Court of the United States

OCTOBER TERM, 1947.

No. 506

A.B.T. MANUFACTURING CORPORATION,
Petitioner,

vs.

NATIONAL SLUG REJECTORS, INC.,
Respondent.

RESPONDENT'S RESPONSE TO SUPPLEMENTAL PETITION FOR REHEARING.

CLARENCE J. LOFTUS,
135 South LaSalle St.,
Chicago 3, Illinois,
Counsel for Respondent.

THE BUNTHORP-WARREN PRINTING COMPANY, 810 WEST JACKSON, CHICAGO

IN THE

Supreme Court of the United States

OCTOBER TERM, 1947.

No. 506.

A. B. T. MANUFACTURING CORPORATION,
Petitioner,

vs.

NATIONAL SLUG REJECTORS, INC.,
Respondent.

RESPONDENT'S RESPONSE TO SUPPLEMENTAL PETITION FOR REHEARING.

To the Honorable the Chief Justice of the United States and the Associate Justices of the Supreme Court of the United States:

I.

This court denied the petition for certiorari. Since then, the petitioner has filed three separate pieces of printed material seeking a rehearing. The last entitled "Supplemental Petition for Rehearing," *again* is based on an inexcusable contention, as fully pointed out in respondent's brief urging that certiorari be denied.

The Court of Appeals, as we heretofore pointed out and as a reading of its Opinion will demonstrate, in holding

Claim 21 valid, not only found that the device of Claim 21 had utility, that it was novel *but that it also amounted to a patentable invention over the prior art,* all in strict compliance with the most exacting decisions of this court.

II.

Petitioner in its last printed "petition," apparently full well realized that it had not previously brought forth anything which would justify a rehearing so it attempted to find an excuse for filing its last "petition" by referring to the recent decision (February 16, 1948) of this Court in the *Funk Brothers* case.

A reading of that Opinion will show that it has no relation whatever to the question decided in the instant case. It is clear that the question which this Court passed on and decided in the *Funk Brothers* case was whether or not the patent claim could be upheld where its novelty was based solely on a *law of nature.*

Petitioner on page 3 quotes an observation from this Court's Opinion in the *Funk Brothers* case, to the effect that a product must be more than new and useful to be patented; it must also satisfy the requirements of invention. That is exactly what the Court of Appeals found and held in the instant case. It not only found that the device had utility, that it was novel, but *that it also amounted to patentable invention over the prior art.*

Petitioner's supplemental petition for rehearing is clearly without merit, excuse or foundation. It is simply another delaying maneuver and should be denied.

Respectfully submitted,

CLARENCE J. LOFTUS,
135 South LaSalle St.,
Chicago 3, Illinois,
Counsel for Respondent.